



FAIR POLITICAL PRACTICES COMMISSION

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February 8, 2010

Mr. Stephen Onstat
Burk, Williams & Sorenson, LLP

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RE: FPPC No. 09/603; Julie Biggs, Gregory Murphy, Stephen Onstat

Dear Mr. Onstat:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act") found in Government Code Section 81000, and following. As you are aware, the Commission received a complaint against you alleging that you violated conflict of interest and reporting provisions of the Act. These allegations referred to your involvement in the decision to settle several lawsuits against the Los Osos Community Services District (the District) and the non disclosure of client income on your Statement of Economic Interests.

Under the Act, no public official at any level of state or local government may make, participate in making, or in any way use or attempt to use his or her official position to influence a governmental decision in which the official knows or has reason to know he or she has a disqualifying conflict of interest. (Section 87100.) To determine whether an individual has a disqualifying conflict of interest, the Commission generally employs the following sequenced analysis: (1) is the individual a public official; (2) did the official make, participate in making, or use or attempt to use the official position to influence a governmental decision; (3) what are the official's economic interests, (4) are the official's economic interests directly or indirectly involved in the governmental decision; (5) what is the applicable materiality standard for each economic interest involved; and (6) is it reasonably foreseeable that the governmental decision will have a material financial effect on the official's economic interest.¹ (See Regulation 18700.)

The decisions that we examined included the settlement agreements reached by the District with several community organizations on November 23, 2005. Our investigation found that neither you, nor your firm, had yet entered into a contractual agreement to represent the District at the time the agreements were reached. At the time of the decision,

¹ The additional two steps of the analysis - whether the public generally exception applies and whether the individual is legally required to participate in the governmental decision - are inapplicable to this matter.

the District was being represented by interim General Counsel, John McClendon, of the firm Leibold, McClendon & Mann. As neither you, nor your firm, had been retrained as counsel by the District at the time of the settlement, you could not have made a governmental decision for the purposes of the Act. Additionally, since you did not have an ownership interest in Burk, Williams & Sorenson, LLP of 10% or more, you were not required to disclose clients who were sources of income on your SEI.

The Commission has completed a review of the forgoing allegations and closed this case without finding a violation.

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act, so if you need forms or manuals, or guidance regarding your obligations, please call the Commission's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov.

Sincerely,

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✓ Zachary W. Norton
Commission Counsel
Enforcement Division